

## **REMARKS**

### **Status of the Application**

Claims 1-40 were pending in the application. Claims 1, 2, 27-29, 34-36, and 38 were rejected. The Examiner objected to claims 3-26, 30-33, 35, and 40, and claims 37 and 39 were allowed.

### **Information Disclosure Statement**

On December 7, 2001, Applicant submitted an Information Disclosure Statement (IDS) which included a Form PTO-1449. This IDS listed an incorrect serial number (09/923,673 instead of 09/928,673). Applicant's previous attorney, Wallenstein & Wagner, subsequently discovered the error and contacted the Group Desk 2600 to inquire whether the IDS was routed to the correct file. The Group Desk indicated that the IDS was received on January 9, 2002 and was routed to the correct file.

A copy of an initialed Form PTO-1449 corresponding to the IDS of December 7, 2001 was not included with the Office Action of May 8, 2003. Applicant respectfully requests that the Examiner consider, if he has not already, the references submitted with the IDS of December 7, 2001, initial the Form PTO-1449, and return a copy of the initialed Form PTO-1449 to Applicant's attorney of record, Marshall, Gerstein & Borun LLP. If the Examiner does not have a copy of the IDS of December 7, 2001, the Examiner is invited to contact the undersigned at 312-474-6300.

### **Objection to Claims 35 and 40**

Claims 35 and 40 were objected because of typographical and grammatical errors. Applicant has amended claim 35 to correct the misspelled word "ban" to "bank". Additionally, Applicant has amended claim 40 to add the word "comprising". Applicant respectfully submits that these amendments are not narrowing.

### **The Rejection Under 35 U.S.C. §102(e)**

Claims 1, 27, 28, 34, 35, and 38 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,075,870 to Geschiere et al. (Geschiere). Applicant respectfully traverses this rejection.

#### **Claim 1**

Geschiere does not disclose or suggest all the elements of claim 1. For example, Geschiere does not disclose or suggest "a hearing aid ... wherein the receiver is driven with a switching signal having a carrier frequency."

The Office Action states that Geschiere discloses this element, but does not provide any citation to Geschiere or any explanation as to why the Examiner believes Geschiere discloses this element. Contrary to the Examiner's assertion, Geschiere does not appear to teach anything about a hearing aid receiver driven with a switching signal. Thus, Geschiere does not disclose or suggest this element.

Additionally, Geschiere does not disclose or suggest a "winding including a plurality of spaced turns forming a plurality of winding layers, the plurality of spaced turns having a parasitic capacitance between individual turns and a predetermined winding pattern and a predetermined winding pitch for reducing the parasitic capacitance."

Although the Office Action asserts, without explanation, that Geschiere discloses this element, Geschiere appears merely to describe a transducer having a coil. Geschiere does not appear to teach anything about a winding pattern of the coil. Nor does Geschiere appear to teach anything about a winding pitch of the coil. Moreover, Geschiere does not teach anything about a predetermined winding pattern and a predetermined winding pitch for reducing a parasitic capacitance associated with the coil. Thus, Geschiere does not disclose or suggest yet another element of claim 1.

Because Geschiere does not disclose or suggest the above-described elements, among others, Applicant respectfully submits that Geschiere does not anticipate claim 1.

Claim 38

Geschiere does not disclose or suggest all the elements of claim 38. For example, Geschiere does not disclose or suggest a "coil comprising a winding of a wire, the winding having an end portion formed by a first plurality of individual turns originating at a point adjacent the tunnel and expanding radially outwardly to form a boundary layer, thereafter the wire being wound in second succession of individual turns to form a plurality of horizontally disposed layers."

Although the Office Action asserts, without explanation, that Geschiere discloses this element, Geschiere appears merely to describe a transducer having a coil. Geschiere does not appear to teach anything about a winding of wire having an end portion formed by a first plurality of individual turns to form a boundary layer. Nor does Geschiere appear to teach anything about the wire being wound in second succession of individual turns to form a plurality of horizontally disposed layers. Thus, Geschiere does not disclose or suggest the above element of claim 38.

Because Geschiere does not disclose or suggest the above-described element, among others, Applicant respectfully submits that Geschiere does not anticipate claim 38.

Other Claims

Applicant submits that claim 27, which depends from claim 1, is allowable for the same reasons as discussed above with respect to claim 1, and for additional reasons.

Additionally, Applicant submits that independent claim 28, and claims 34 and 35 which depend from claim 28, are allowable for reasons similar to those discussed above with respect to claim 1, as well as for additional reasons.

**The Rejection Under 35 U.S.C. §103**

Claims 2, 29, and 36 were rejected under U.S.C. §103(a) as being unpatentable over Geschiere in view of U.S. Patent No. 3,873,784 to Doschek (Doschek). Applicant respectfully traverses the rejection of claim 2 and 29. Claim 36 has been amended in response to the rejection.

Claims 2 and 29

Geschiere and Doschek do not disclose or suggest, either alone or in combination, all the elements of either of claims 2 and 29, which depend from claim 1. For example, as discussed above with respect to claim 1, Geschiere does not disclose or suggest "a hearing aid ... wherein the receiver is driven with a switching signal having a carrier frequency." Further, Doschek does not disclose or suggest this element. Rather, the transducer of Doschek appears to be driven by an acoustic baseband signal. *See Doschek* at Figs. 5, 11, 33, and 43.

Additionally, as discussed above with respect to claim 1, Geschiere does not disclose or suggest a "winding including a plurality of spaced turns forming a plurality of winding layers, the plurality of spaced turns having a parasitic capacitance between individual turns and a predetermined winding pattern and a predetermined winding pitch for reducing the parasitic capacitance."

Doschek also does not disclose or suggest this element. Doschek does not appear to teach anything about a predetermined winding pattern and a predetermined winding pitch for reducing the parasitic capacitance. The Examiner asserts that col. 3, lines 29-35 of Doschek discloses varying the spacing between turns of an electric conductor means. But this portion of Doschek appears to be related to positioning the electric conductor means so that forces exerted on a diaphragm to which the electric conductor means is attached are symmetrical, thus minimizing pitch and yaw of the diaphragm when it moves. This portion of Doschek does not appear to teach anything about reducing parasitic capacitance.

Because Geschiere and Doschek do not disclose or suggest, either alone or in combination, the above-discussed elements of claims 2 and 29, Applicant respectfully asserts that these claims are not rendered obvious by Geschiere and Doschek.

Claim 36

Claim 36 has been amended to recite an "electroacoustic receiver driven with a switching signal having a carrier frequency." As discussed above with respect to claims

2 and 29, neither Geschiere nor Doschek teach anything about a receiver driven with a switching signal having a carrier frequency.

Because Geschiere and Doschek do not disclose or suggest, either alone or in combination, this element, Applicant respectfully asserts that claim 36, as amended, is not rendered obvious by Geschiere and Doschek.

### **Allowable Subject Matter**

The Examiner objected to claims 3-26 and 30-33 as being dependent upon rejected base claims, but indicated they would be allowable if rewritten in independent form. Additionally, the Examiner objected to claim 40 because of an informality, but indicated claim 40 was otherwise allowable. In view of the above amendments and remarks, Applicant respectfully requests withdrawal of the objections.

Applicant acknowledges with appreciation the allowance of claims 37 and 39.

### **Comment on Statement of Reasons for Allowance**

The Examiner's Statement of Reasons for Allowance stated that the prior art failed to show several elements from particular ones of the claims 3-26, 30-33, 37, 39, and 40. All of these elements are not included in all of claims 3-26, 30-33, 37, 39, and 40. In fact, some of these claims do not include any of these elements. Therefore, Applicant respectfully submits that if an element from the several identified elements is not recited in a claim, that element cannot be a basis for patentability of the claim.

Further, in addition to the reasons for allowance set forth by the Examiner, it is respectfully submitted that the claims are allowable for the additional reasons that the subject matter defined by the language of the claims is neither anticipated by, nor would have been obvious when taken as a whole in view of, the art of record.

### **Conclusion**

In view of the above remarks, re-consideration of this application and passage to issuance is respectfully requested. The examiner is invited to contact applicant's undersigned attorney with any questions regarding this response or the application as a

whole. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

Respectfully submitted,

Dated: October 8, 2003

By: 

Gregory E. Stanton

Registration No.: 45,127

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant